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Before the
Federal Communications Commission
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of

Application by New York Telephone)
Company (d/b/a Bell Atlantic - New York),)
Bell Atlantic Communications, Inc.,)
NYNEX Long Distance Company,)
and Bell Atlantic Global Networks, Inc.,)
for Authorization To Provide In-Region,)
InterLATA Services in New York)

CC Docket No. 99-295

**REPLY COMMENTS OF RCN TELECOM SERVICES, INC. UPON
APPLICATION BY BELL ATLANTIC - NEW YORK FOR AUTHORIZATION TO
PROVIDE IN-REGION, INTERLATA SERVICES IN NEW YORK**

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Dated: November 8, 1999

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SUMMARY

Access to House and Riser Cable — Checklist Item Nos. 2 & 4

Bell Atlantic does not presently have the institutional mechanisms in place to provide timely connection to house and riser cable in multi-tenant buildings, nor is it currently providing such connections on a timely basis. Bell Atlantic fails to provision connections to house and riser cable to RCN by the promised due date approximately 60% of the time. Customers additionally lose service completely when Bell Atlantic fails to meet the promised date for provisioning house and riser cable because Bell Atlantic fails to suspend the disconnect order for Bell Atlantic service. The result of Bell Atlantic's failure and inability to process orders for house and riser cable reliably is that new entrants will not be able to compete effectively for customers in multitenant buildings. Accordingly, Bell Atlantic has not taken the steps necessary to open its markets to competition as required under Sections 271(c)(2)(B)(iii) and (iv) and its application must be denied.

Access to Bell Atlantic's Conduit — Checklist Item No. 3

In building its own facilities-based network, RCN uses the conduit of Bell Atlantic and Bell Atlantic's wholly-owned subsidiary Empire City Subway ("ECS"). Often, RCN requests conduit over routes that are full or otherwise unavailable. In such cases, ECS must excavate new conduit runs. ECS has not completed these excavations in a timely manner. Indeed, ECS delays the construction of RCN's network and prevents RCN from promising customers in-service dates, by drawing out the excavation process. As Bell Atlantic admits, the excavation delays exceed 130 days.

To remedy these problems, Bell Atlantic and ECS must: (1) permit RCN to construct new conduit runs using approved contractors; and (2) should give RCN firm completion dates that RCN can use in developing in-service dates for customers. In the absence of these corrective measures, Bell Atlantic has not met its obligations under 47 U.S.C. § 271(c)(2)(B)(iii), the Competitive Checklist item that covers access poles, ducts, conduits and rights-of-way.

Loop/Transport Combinations — Checklist Item Nos. 2, 4, & 5

Bell Atlantic administers correction of service outages for the DS3 and DS1 portions of loop transport combinations by separate organizational units and personnel. The result is that RCN must submit separate outage reports and, in effect, oversee the outage repair Bell Atlantic operational units. It can take a minimum of 18 to 24 hours to check an outage of a loop transport combination if everything goes smoothly and more likely more than 24 hours to locate and correct the outage. Customers assume that RCN is responsible for these outages. This situation is very damaging to RCN's reputation and ability to compete effectively for customers. New entrants will not be able to compete successfully if they provide, or are perceived as providing, inferior service because of outages in UNEs. Therefore, Bell Atlantic has not fully or adequately

taken the steps to open its markets to competition as required under Sections 271(c)(2)(B)(ii), (iv) and (v) and its application must be denied.

Access to Resold Telecommunications Services — Checklist Item No. 14

In addition to its facilities-based service offerings, RCN also resells the local telephone service of Bell Atlantic. RCN has discovered that its resale customers cannot switch their Presubscribed Interexchange Carrier ("PIC") as seamlessly as Bell Atlantic's retail customers can. RCN's customers have experienced a lag time between the disconnection of their current interexchange carrier and the connection of their newly-designated interexchange carrier. As a result, RCN's resale customers have lost long distance service for extended periods of time. Until Bell Atlantic eliminates this lag time, the Commission cannot deem Bell Atlantic to have complied with 47 U.S.C. § 271(c)(2)(B)(xiv), the Competitive Checklist item requiring Bell Atlantic to make telecommunications services available for resale.

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APPLICATION BY BELL ATLANTIC - NEW YORK FOR AUTHORIZATION TO
PROVIDE IN-REGION, INTERLATA SERVICES IN NEW YORK**

RCN Telecom Services, Inc. ("RCN"), through undersigned counsel and pursuant to the Commission's *Public Notice* (dated September 29, 1999), hereby submits its reply comments concerning the Application by Bell Atlantic - New York For Authorization to Provide In-region, InterLATA Services in New York in the above-captioned docket.

ARGUMENT

I. BELL ATLANTIC DOES NOT PROVIDE TIMELY ACCESS TO HOUSE AND RISER CABLE

As RCN noted in its initial comments in this proceeding, Bell Atlantic does not presently have the institutional mechanisms in place to provide timely connection to house and riser cable in multi-dwelling units ("MDUs"), nor is it currently providing such connections on a timely basis. As of a few months ago, Bell Atlantic failed to provision connections to house and riser cable to RCN by the promised due date 60% of the time.^{1/} Bell Atlantic's performance has not

^{1/} Declaration of Edward M. Kuczma ("Kuczma Declaration"), ¶ 4.

improved materially since then. *See* Declaration of Alan Thompson, CC Docket No. 99-295, at ¶ 6 (filed with RCN's initial comments).

When RCN obtains a new customer it provides a service start date based on when Bell Atlantic has agreed to connect RCN facilities to house and riser cable serving the customer. With Bell Atlantic's current performance, RCN must inform its customers in a majority of cases that Bell Atlantic has missed the promised due date. This failure rate is particularly disturbing for customers that have ordered special services or features from RCN but do not receive them as expected. Moreover, this failure rate far exceeds that for "hot cuts" in general, which the Department of Justice has cited as sufficient basis for denying Bell Atlantic's present Section 271 application.^{2/} Bell Atlantic's failure rate for house and riser cable is sufficient to preclude meaningful local service competition in markets such as New York City that have a large concentration of customers in MDUs.

However, the initial failure to meet the install date for house and riser cable is only part of the story in Bell Atlantic's very poor performance in this area. After the initial failure to meet the install date, a new date must be established which is also frequently missed. Once again the customer must be informed of a delay in receiving service. These multiple install dates and failures are costly for RCN since RCN must make multiple trips to the site to see if the connection of RCN facilities to the house and riser cable has been made.

In addition to delays in service, customers may lose service completely when Bell Atlantic fails to meet the promised date for provisioning house and riser cable. Disconnections

^{2/} DOJ Evaluation at 18.

occur when Bell Atlantic fails to suspend the disconnect order (which RCN must place with an order for house and riser cable) whenever Bell Atlantic fails to provision the house and riser cable for a particular customer. Bell Atlantic now customarily delays the disconnect order until well after the due date, in order to avoid these problems. However, inadvertent disconnections have not entirely disappeared. As a further inconvenience to all concerned, Bell Atlantic does not notify RCN when it either completes, or does not complete, a requested connection to house and riser cable. RCN only learns that a customer is no longer receiving service when the customer complains to RCN (frequently from a payphone).

As RCN stated in its initial comments, it has agreed in principle with Bell Atlantic to conduct a "trial" in which RCN itself will provision Bell Atlantic's house and riser cable. Nevertheless, it is not entirely clear that the trial will result in arrangements that will alleviate all of the provisioning problems that Bell Atlantic has with house and riser cable. More than likely, CLECs will continue to rely upon Bell Atlantic to provision house and riser cable. Thus, the poor performance of Bell Atlantic in provisioning house and riser cable is significant.

The obvious result of Bell Atlantic's failure and inability to process orders for house and riser cable reliably is that new entrants will not be able to compete effectively for customers in MDUs. As a practical matter, regardless of the cause, new entrants will be blamed for poor service and will not be able to compete on an equal footing with Bell Atlantic, especially in New York City, where virtually all residential customers are located in MDUs. Accordingly, Bell Atlantic has not taken the steps necessary to open its markets to competition as required under Section 271(c)(2)(B)(iii) and (iv) and its application must be denied.

The Commission should determine that Bell Atlantic will not be successful in gaining Section 271 approval until it has implemented permanent institutional measures that will ensure that it will be able on a continuing basis to provide house and riser cable in a reliable manner. As part of these measures, Bell Atlantic should establish organizational units responsible for processing and provisioning house and riser cable and should modify the GUI, both of which will need to handle the many thousands of requests that Bell Atlantic is likely to receive on a monthly basis in a local market fully opened to competition. The Commission should also develop performance metrics and monitoring reports that will provide a basis for evaluating Bell Atlantic's performance in these areas on a permanent basis.

II. BELL ATLANTIC DOES NOT PROVIDE ACCESS TO CONDUIT IN A COMMERCIALY REASONABLE MANNER

Throughout the proceedings in New York that considered Bell Atlantic's draft Section 271 application, RCN complained of Bell Atlantic's poor performance in provisioning conduit in Manhattan, which is administered by Bell Atlantic's wholly-owned subsidiary Empire City Subway ("ECS"). Specifically, RCN protested Bell Atlantic's lengthy delays, exceeding 133 days, in excavating new conduit. Wyllie Affidavit, ¶ 7. RCN asserted that it could ameliorate these delays by performing the excavation work itself using ECS-approved contractors.

Bell Atlantic claims issues with its ability to provision conduit are resolved because: (1) ECS has ramped up its work force by 40%; (2) CLECs may excavate conduit themselves using approved contractors; and (3) ECS provides Bell Atlantic slightly worse performance than ECS provides CLECs. Declaration of Paul Lacouture and Arthur Troy ("Troy/Lacouture

Declaration"), ¶¶ 139, 150. Based upon these representations, the New York Commission determined that the issue was closed. NYPSC Evaluation, at 75.

In the Declaration of Daniel Visconti (attached hereto as Exhibit A), RCN refutes these contentions. ECS has refused to permit RCN to excavate conduit using approved contractors. As Mr. Visconti notes, Bell Atlantic has permitted such an arrangement in Queens and Brooklyn, but ECS has taken a wholly different position in Manhattan and the Bronx. Moreover, despite allegedly increasing its work force by 40%, ECS's performance has not improved materially since RCN complained of these delays to the New York Commission in April of this year. These delays are intolerable.

Thus, the New York Commission closed the conduit issue much too soon. This Commission should not approve Bell Atlantic's Section 271 application until it actually demonstrates that it provides commercially reasonable access to conduits pursuant to 47 U.S.C. § 271(c)(2)(B)(iii).

III. BELL ATLANTIC DOES NOT CORRECT, OR HAVE ADEQUATE PROCEDURES IN PLACE TO CORRECT, OUTAGES OF LOOP TRANSPORT COMBINATIONS IN A TIMELY MANNER

As noted above, RCN is a facilities-based carrier serving mostly residential and some business customers in New York City. When RCN has needed to provide service to a distant customer, outside of the immediate calling area served by its switch, RCN has purchased as UNEs loop transport combinations from Bell Atlantic which provide connections from RCN's switch to the end user. Typically, this combination is comprised of a DS3 circuit from the RCN switch to the end office serving the customer and then a DS1 from the end office to the end user

customer. As many as 28 DS1 circuits can be connected to the DS3 (672 total circuits). Bell Atlantic terminates the DS1 at the customer's premises. RCN then performs final connections to customer premises equipment.

As pointed out in RCN's initial comments in this proceeding, when a customer's service provided by a loop transport combination goes down RCN must submit two outage reports one for the DS3 portion of the link to the end user and one for the DS1 portion. This is because Bell Atlantic administers service restoration by separate organizational units and technical personnel assigned to the DS3 and DS1 portions of the loop transport combination.

Because the DS3 can serve up to 28 DS1s and bring them all down, Bell Atlantic will always check the DS3 circuit first. If the end of the normal work day occurs before the check is completed, it will be deferred to the next day. If there is no problem in the DS3 circuit, the technician will close out the outage report for the DS3 circuit. There then needs to be an internal communication within Bell Atlantic between the DS3 and DS1 organization units and technicians so that the office and person with responsibility for the DS1 circuit can test it. This communication does not always happen promptly or in conjunction with other labor efforts. Once it takes place, the same cycle that occurred with respect to the DS3 circuit repeats itself. Again, if the normal work day ends before the check is completed it is extended to the next day. The total result is that it can take a minimum of 18 to 24 hours to check an outage of a loop transport combination if everything goes smoothly and more likely 24 hours or more to locate, dispatch personnel, and correct the outage. Frequently, outages can last several days.^{3/} For

^{3/} Declaration of Terry Roberts ("Roberts Declaration"), ¶ 5 and appendix.

example, of 95 outage reports submitted to Bell Atlantic for loop transport combinations between January and November, 1999, only 13 outages were corrected in one day or less; 60 were corrected in 1 to 7 days; 14 were corrected in 7 to 14 days; and 8 were corrected in more than 14 days.^{4/} This situation can leave RCN customers without access to 911 services.

In order to attempt to get the process to work smoothly, the burden falls on RCN, in effect, to perform the coordination and management of the outage correction that Bell Atlantic should be performing itself internally. RCN must submit two outage reports and coordinate between technicians and units within Bell Atlantic to make sure, to the extent possible, that the outage is promptly corrected.

The customer does not know or care about Bell Atlantic's administration of service outages for loop transport combinations or that Bell Atlantic is responsible for the outage. As a matter of customer relations, RCN does not attempt to blame Bell Atlantic for outage of service provided by means of loop transport combinations. Customers assume in any event that RCN is responsible and should correct the problem. This situation is very damaging to RCN's reputation and ability to compete effectively for customers.^{5/}

RCN does not know how Bell Atlantic administers service outages to its own customers. It is not likely to be the case that it permits its customers to be without service for several days because of inadequate coordination between Bell Atlantic operational repair units, or the end of the business day. Thus, it is likely to be the case that Bell Atlantic's administration of outages

^{4/} These figures were calculated based on the received and completion times and dates specified on the tickets. Seven tickets did not specify a completion date or time.

^{5/} Roberts Declaration, ¶ 6.

and repairs of loop transport combinations substantially disadvantages new market entrants. In addition, RCN does not believe that Bell Atlantic's customers experience the same frequency of service outages that is experienced by RCN's customers.

It is clear that service outages fall within the scope of the competitive checklist. Loop transport combinations are UNEs. It would not meaningfully open Bell Atlantic's local markets to competition if it promptly provisions UNEs but then does not promptly correct outages in UNEs and/or provides UNEs in ways that result in more outages for new entrants. New entrants will not be able to compete successfully if they provide, or are perceived as providing, inferior service because of outages in UNEs. RCN submits that the facts presented above show that Bell Atlantic's administration of service outages substantially disadvantages competitors. Therefore, Bell Atlantic has not fully or adequately opened its markets to competition and its present Section 271 application should not be granted.

The Commission should determine that Bell Atlantic may not receive Section 271 approval until it establishes permanent institutional changes to its administration of correction and repair of loop transport combinations that eliminate the significant harms to competitors entailed in current procedures. Essentially, Bell Atlantic should be required to establish a single office that will be responsible for completing the outage correction for the entire circuit and that performs all coordination functions within Bell Atlantic without requiring or expecting RCN to oversee this process.

In addition, Bell Atlantic should be required to establish specific performance metrics for repair of outages of loop transport combinations and all UNEs. These should be expressed in

terms of mean repair time. Bell Atlantic should be required to demonstrate that it meets an appropriate mean repair time as a precondition to interLATA entry. The Commission should also establish safeguards against manipulation of performance outage metrics. For example, when Bell Atlantic checks a DS3 circuit that is used by the carrier to provide DS1 channels, Bell Atlantic may attempt to count this as correction of 28 service outages. The Commission should require that mean time of repairs be determined in a way that does not distort results in favor of Bell Atlantic.


IV. BELL ATLANTIC DOES NOT PROCESS THE PIC CHANGES OF RCN'S RESALE CUSTOMERS SEAMLESSLY AS BELL ATLANTIC DOES FOR ITS OWN RETAIL CUSTOMERS

As the Declaration of DG Gulati (attached hereto as Exhibit C) demonstrates, Bell Atlantic does not process the requests of RCN's resale customers to change their presubscribed interexchange carrier ("PIC") seamlessly, as Bell Atlantic does for the requests of its own retail customers. When Bell Atlantic receives a PIC change for an RCN resale customer, Bell Atlantic disconnects the customer's present interexchange carrier without simultaneously connecting the customer's newly designated interexchange carrier. There is a lag time during which the customer does not have long distance service. As a result, RCN's resale customers become very angry and blame RCN because, more than anything, they never experienced such a lag time when they received local service from Bell Atlantic and initiated a PIC change. In this regard, Bell Atlantic has failed to provide resale services in accordance with 47 U.S.C. § 251(c)(4). *See* 47 U.S.C. § 271(c)(2)(B)(xiv).

CONCLUSION

For the foregoing reasons, the Commission should reject Bell Atlantic's Section 271 application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Russell M. Blau", written over a horizontal line.

Russell M. Blau

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Counsel for RCN Telecom Services, Inc.

Dated: November 8, 1999

LIST OF EXHIBITS

EXHIBIT A	Declaration of Daniel Visconti
EXHIBIT B	Declaration of Terry Roberts
EXHIBIT C	Declaration of DG Gulati
EXHIBIT D	Affidavit of Edward Kuczma (filed with the New York Public Service Commission, dated July 26, 1999)
EXHIBIT E	Affidavit of Alan Thompson (filed with the New York Public Service Commission, dated April 27, 1999)
EXHIBIT F	Affidavit of Timothy Wyllie (filed with the New York Public Service Commission, dated April 27, 1999)
EXHIBIT G	Affidavit of Terry Roberts (filed with the New York Public Service Commission, dated August 3, 1999)

Exhibit A

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of

Application by New York Telephone)	
Company (d/b/a Bell Atlantic - New York),)	
Bell Atlantic Communications, Inc.,)	CC Docket No. 99-295
NYNEX Long Distance Company,)	
and Bell Atlantic Global Networks, Inc.,)	
for Authorization To Provide In-Region,)	
InterLATA Services in New York)	

DECLARATION OF DANIEL R. VISCONTI

I, Daniel R. Visconti, first being duly sworn, depose and state as follows:

1. I am Director of Engineering and Construction for RCN Telecom Services, Inc. ("RCN"). My business address is 560 Washington Street, New York, NY 10014. My responsibilities include overseeing the construction of RCN's network in New York City and the provision of network services to individual buildings. As a result, I have considerable experience dealing with issues related to access to conduits.
2. The purpose of my declaration is to respond to statements made in the Evaluation of the New York Public Service Commission ("NYPSC") (dated October 19, 1999) concerning RCN's difficulties obtaining conduit in a timely manner from Bell Atlantic - New York ("Bell Atlantic") and its wholly-owned subsidiary Empire City Subway ("ECS"), which manages conduit in Manhattan and the Bronx.
3. By way of background, RCN has complained of ECS's poor performance in providing access to conduit in a number of filings made with the New York Commission in its case evaluating Bell Atlantic's Section 271 application. Attached to RCN's Reply Comments in this case (as Exhibit [INSERT]) is the affidavit that Timothy Wyllie of RCN that was filed with the New York Commission in April of this year. That affidavit states (at ¶ 7) that ECS's average interval for excavating new conduit pursuant to an RCN order was 133 days. Despite Bell Atlantic's claim that ECS has increased its workforce by 40%, that interval has not improved materially since Mr. Wyllie filed his affidavit with the NYPSC last April. See Troy/Lacouture Declaration, ¶ 139.

4. Bell Atlantic asserts that difficulties obtaining conduit are ameliorated by its offer to allow CLECs to excavate conduit own using approved contractors. Troy/Lacouture Declaration, ¶ 150. The NYPSC relies upon Bell Atlantic's declarations, filed with its application in this case, to close the conduit issue. NYPSC Evaluation, at 75.
5. Bell Atlantic's statements are only half correct. Bell Atlantic will permit RCN to excavate conduit in Queens and Brooklyn using Bell Atlantic-approved contractors. However, ECS will not permit RCN to do likewise in Manhattan and the Bronx. In fact, as recently as two weeks ago, ECS turned down my request for permission to excavate conduit under such an arrangement. At that time, I informed ECS's Construction Manager of Bell Atlantic's statement that RCN may perform such excavations and he told me that Bell Atlantic has *no* authority to say what RCN can and cannot do with ECS conduit runs.
6. It is important to understand how lengthy delays in receiving access to new conduit runs hurts RCN's business. We are soliciting customers all over New York City, including in areas that RCN presently does not serve. Customers that are located in new areas of the city that RCN plans to serve want us to commit to being able to offer service at a specific point in the future. We cannot do that without knowing when we will receive conduit runs from ECS, which are essential to expanding the RCN footprint. Customers are unwilling to wait for us without having some idea as to our projected in-service date. Frankly, I do not blame them.
7. For RCN to be successful in New York, it needs ECS: (1) to allow RCN to excavate conduit runs itself using ECS-approved contractors; and (2) to commit to providing RCN, at time that RCN requests the excavation of new conduit runs, with specific and reliable completion dates.
8. As one might imagine, managing the labyrinth of conduit in Manhattan and the Bronx is no simple task. Nevertheless, there are steps that ECS could take to make conduit more readily available to CLECs such as RCN. First, ECS, in coordination with Bell Atlantic, should remove the "dead" cable that clogs various conduit all over Manhattan and the Bronx. What I mean by "dead" cable is cable that Bell Atlantic once used, but has since decommissioned for one reason or another.^{6/} During the process of requesting conduit, it is possible to remove dead cable, but only on a piecemeal basis. If Bell Atlantic and ECS removed dead cable proactively, there would be many newly-available conduit runs for CLECs to use. By not removing dead cable, Bell Atlantic effectively reserves conduit

^{6/} Reasons to decommission cable include: (1) the cable is obsolete; (2) the cable is no longer a productive asset because the cost of maintenance has become excessive; and (3) the cable no longer functions in a reliable manner.

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Bell Atlantic - New York
New York

runs for its own use in the future. Thus, Bell Atlantic enjoys a de facto right of reservation, that is unavailable to CLECs, because it has been the monopoly local service provider since the inception of local telephone service.

9. The second step ECS could take to make conduit more readily available would be to excavate conduit runs proactively in advance of the paving schedule in Manhattan and the Bronx. Currently, there is a five-year moratorium on excavating conduit running under newly paved streets. Unless a CLEC requests that ECS excavate such a conduit run before the paving takes place, CLECs seeking new conduit after that point are effectively shut out for five years. However, ECS could, on its own initiative, solicit CLECs to purchase conduit runs under streets that are scheduled to be paved.² In addition, ECS could perform some excavations without having purchasers already identified. Such conduit runs would be an investment for ECS, one that likely would be profitable for two reasons. First, the rate of network building in New York City is increasing and, second, it is less expensive for ECS to excavate conduit under streets that are about to be re-paved.

10. This concludes my declaration.

Pursuant to 47 C.F.R. § 1.16, I declare under penalty of perjury that the foregoing is true and correct. Executed on: November 8, 1999.

 11-8-99
Daniel R. Visconti

² Since the city governments publish the paving schedule three years in advance, there is ample time for ECS to locate potential purchasers.

Exhibit B

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Company (d/b/a Bell Atlantic - New York),)	
Bell Atlantic Communications, Inc.,)	CC Docket No. 99-295
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for Authorization To Provide In-Region,)	
InterLATA Services in New York)	

DECLARATION OF TERRY ROBERTS

I, Terry Roberts, state as follows:

1. I am employed by RCN Telecom Services of New York, Inc. ("RCN") as the Director of Network Operations.
2. I am submitting this declaration on behalf of RCN to bring to the Commission's attention the various instances in which Bell Atlantic-New York ("Bell Atlantic") has caused RCN's customers, served over unbundled local transport, to be without service for extended periods of time.
3. As the Commission is aware, RCN is a facilities-based carrier serving mostly residential customers in New York City. While RCN serves most customers almost entirely over its own network, it does purchase unbundled loop transport combinations from Bell Atlantic and use those facilities to connect various outlying customers to its switch. There have been a number of service outages with these unbundled local transport arrangements. Unfortunately, Bell Atlantic has not addressed the trouble tickets that RCN filed with regard thereto in a responsive and timely manner.

4. First, Bell Atlantic has not responded to RCN's trouble tickets regarding out of service unbundled local transport in a timely manner. On many occasions, RCN customers have experienced loss of service, including 911 service, for twelve to twenty-four hour periods — although in some cases the outages have been even longer. The cause of these outages appears to be Bell Atlantic's failure to dispatch a technician within a reasonable interval. At other times, it appears that Bell Atlantic dispatches a technician, but that individual closes the trouble ticket without actually restoring the customer's service. In such cases, the RCN customer goes without service for extended periods of time while RCN generates a new trouble ticket, thus elongating the repair process.

5. The Appendix (attached hereto) provides an analysis of trouble tickets generated for RCN customers who have experienced extended service outages or degradation of service between January and November of this year. This analysis shows that outage repairs take longer than a day in a large percentage of cases. However, RCN lacks complete records. Bell Atlantic arbitrarily cancels tickets or reissues new tickets without providing RCN any notice. As a result, the data in Appendix A may not properly reflect the time a particular repair may take according to Bell Atlantic records.

6. Bell Atlantic's failure to address and resolve trouble tickets in a timely manner gives RCN's customers a poor impression of its service quality. Consequently, RCN loses existing and potential customers due to circumstances that are wholly within the control of Bell Atlantic.

7. This concludes my declaration.

RCN Telecom Services of New York, Inc.
Bell Atlantic - New York
New York

*Pursuant to 47 C.F.R. § 1.16, I declare under penalty of perjury that the foregoing is true
and correct. Executed on: November 8, 1999.*

Terry Roberts

APPENDIX

RCN SERVICE OUTAGE/TROUBLE REPORTS TO BELL ATLANTIC/NYNEX

Total Number of Tickets Reviewed	Period Covered	Length of Outages ^{6/}			
		< 1 day	1-7 days	7-14 days	14 + days
95 ^{7/}	Between January 4 and November 3, 1999				
		13	60	14	8

^{6/} This represents the elapsed amount of time between the received and completion times specified on the tickets. Completion times were entered by RCN personnel. RCN personnel generally entered a completion time and date 24 hours after Bell Atlantic reported the outage as corrected in order to ensure that the repair was actually made without further customer complaint to RCN.

^{7/} Seven tickets did not have specify a completion date and time.

Exhibit C

**Before the
Federal Communications Commission
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Application by New York Telephone)	
Company (d/b/a Bell Atlantic - New York),)	
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and Bell Atlantic Global Networks, Inc.,)	
for Authorization To Provide In-Region,)	
InterLATA Services in New York)	

DECLARATION OF DG GULATI

I, DG Gulati, first being duly sworn, depose and state as follows:

1. I am the Senior Vice President of the Technical Network Development Group for RCN Telecom Services and other RCN affiliates ("RCN"). My business address is 214 Carnegie Center, Princeton, NJ 08540. I have overall responsibility for the planning, development, engineering and subsequent deployment of voice and data services in RCN's different strategic markets. My responsibilities also include the evaluation, development, and testing of new technologies for the Company.
2. RCN has approximately 28,500 customers in New York that it serves by reselling the local service of Bell Atlantic - New York ("BA-NY"). These customers are in addition to the customers that RCN serves over its own network facilities.
3. RCN recently discovered that BA-NY does not process changes of an RCN resale customer's Presubscribed Interexchange Carrier ("PIC") seamlessly. Rather, upon receiving a PIC change request for a certain customer from RCN, BA-NY will disconnect the customer's current PIC but not immediately connect the customer's newly designated PIC. In other words, there is a lag time between disconnection of the old PIC and connection of the new PIC. As a result, customers will pick up the telephone, dial a long distance telephone number, and unexpectedly receive a message stating that they lack a PIC and must call their local service provider to designate one. At that point, they become exceptionally irate.

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Bell Atlantic - New York
New York

4. I can assure you that BA-NY's retail customers do not experience such delays in connecting a new PIC. Accordingly, RCN's customers who experience these delays typically blame RCN for failing to take the necessary steps to ensure that the PIC change proceeds smoothly. Yet, short of filing a complaint against BA-NY, there is little that RCN can do to correct the problem.
5. This concludes my declaration.

Pursuant to 47 C.F.R. § 1.16, I declare under penalty of perjury that the foregoing is true and correct. Executed on: November 8, 1999.

DG Gulati

Exhibit D

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Petition of New York Telephone Company for Approval)	
of Its Statement of Generally Available Terms and)	
Conditions Pursuant to Section 252 of the)	
Telecommunications Act of 1996 and Draft Filing of)	Case 97-C-0271
Petition for InterLATA Entry Pursuant to Section 271)	
of the Telecommunications Act of 1996 to Provide)	
In-Region, InterLATA Services in the State of New York)	

AFFIDAVIT OF EDWARD M. KUCZMA

I, Edward Kuczma, first being duly sworn, depose and state as follows:

1. I am employed by RCN Telecom Services of New York, Inc. ("RCN") as the City Manager for RCN's operations in New York City.

2. As the Commission is aware, RCN is a facilities-based carrier serving mostly residential customers in New York City. RCN has sought to connect its link plant to the Bell Atlantic - New York ("BA-NY") house and riser cable ("H&R") that services individual customers in multi-dwelling units. Alan Thompson submitted an affidavit on behalf of RCN on April 27, 1999 describing the problems RCN had been experiencing with BA-NY's provisioning of H&R at that time. Since that time, RCN has experienced significant additional problems accessing BA-NY's H&R. I am submitting this affidavit on behalf of RCN to update the Commission regarding BA-NY's deplorable performance in this area.

3. As the following sections describe, RCN sends BA-NY H&R orders in two forms. First, we send orders for individual residential customers who generally have only one telephone line. Second, we send multiple orders for as many as eighty customers who each reside in the same building. We use these batch orders in order to ease the burden upon BA-NY and to

increase the provisioning interval, which otherwise would be absolutely intolerable (e.g., several months). The following sections below describe the problems that RCN has experienced with each type of order.

I. INDIVIDUAL HOUSE AND RISER CABLE ORDERS

4. BA-NY fails to provision 60% of RCN's H&R orders by the due date.^{1/}

Typically, the BA-NY technicians dispatched to perform the cross-connect work associated with a particular H&R order close out the job as complete or close out the job as pending without actually performing the work. The reason the technicians tend to do so is that BA-NY has not created sufficient procedures for handling H&R orders, nor has it provided its personnel with appropriate training.^{2/} When they arrive at the terminal block for a particular customer, they see that the customer is already connected to BA-NY's network and is receiving telephone service. They do not know what they are supposed to do with an H&R order. It is no wonder that BA-NY uses Special Project Teams to provision the batch H&R orders described in the next section (which have their own flaws). On June 28, 1999, BA-NY told me that it hoped to have Special Project Teams also do individual H&R orders, but that it lacked proper staff at that time. BA-NY indicated that it required 30 to 60 days to hire the necessary personnel to handle individual H&R orders. I have seen no evidence that BA-NY is doing such hiring or that the Special Project Teams will soon take over provisioning of individual H&R orders. Furthermore, I worry

^{1/} BA-NY has failed to provision on the first dispatch approximately 250 orders up to this point.

^{2/} BA-NY has admitted to me that it has not created a H&R training module or trained its technicians how to perform complete H&R orders.

that BA-NY's use of Special Project Teams to provision H&R orders will not continue after it receives Section 271 authority in New York.

5. It is important for the Commission to realize that when BA-NY fails to provision H&R orders for its existing customers who are switching to RCN,^{3/} the customers often lose their telephone service for some period of time (typically 48 to 72 hours).^{4/} These service interruptions occur because BA-NY not only fails to install the H&R cross-connect so that RCN may serve a particular customer, BA-NY also fails to suspend the disconnect order that RCN places simultaneously with its H&R order.^{5/} While the resulting outages are remedied eventually, the customers tend to be upset and they almost always blame RCN. We have lost approximately 40 customers in the last 45 days to such incompetence on the part of BA-NY.

6. For new customers, who do not yet have telephone service from any provider, the service outages when signing up for RCN's facilities-based service are much worse. It takes BA-NY seven to ten business days to provision H&R orders. When BA-NY does not complete an order (which occurs 60% of the time, as noted above), the customer typically must wait another five business days for BA-NY to attempt to provision the H&R cross-connect again. The reason for the additional delay is that BA-NY requires even failed orders to be scheduled according to

^{3/} Ninety percent of RCN's H&R orders are for such migrating customers.

^{4/} One such customer lost dialtone for six days.

^{5/} Since BA-NY does not notify RCN when it either completes a H&R order or fails to do so, RCN only learns of failed attempts when the customer calls to complain about lost service. Of course, because the customer's telephone service is out, they must find another telephone to make that call to RCN.

the SMARTS clock. These delays act as a barrier to entry, making it difficult for RCN to acquire new customers who do not receive service currently from BA-NY.

7. The Commission should bear in mind that the volume of H&R orders that RCN has been sending to BA-NY does not even approach the level of commercially reasonable quantities that it should receive during full-blown local competition. RCN has sent only a few hundred H&R orders to BA-NY over the last four months. In the next thirty days, RCN projects to place 500 H&R orders with BA-NY. While the rate at which these orders are growing is about 20% per month, the overall number of orders is small. If BA-NY cannot handle these limited order quantities without creating a backlog (which currently stands at 100 individual H&R orders), it is not likely it could handle the kind of order volumes that full-blown local competition would present. In fact, the next section demonstrates that BA-NY has been less than successful at clearing the H&R order backlog for batch orders since mid-April of this year.

II. BATCH HOUSE AND RISER ORDERS

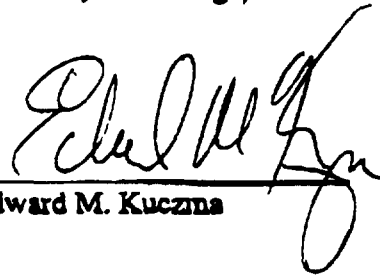
8. Earlier this year, RCN's marketing efforts identified several thousand BA-NY customers who would be interested in switching to RCN's facilities-based local service. RCN quickly realized that BA-NY could not handle that volume of H&R orders submitted over its OSS interfaces, such as the GUI.⁴ RCN and BA-NY negotiated a process to submit these orders in batches, grouping them by building location in order to create certain efficiencies. As noted above, BA-NY designated Special Project Teams to carry out this H&R work.

⁴ Indeed, it was not until late April of this year that BA-NY programmed the GUI to handle even a single H&R order.

9. Since mid-April of this year, BA-NY and RCN have completed approximately 800 H&R orders submitted in batch form. BA-NY's Special Project Teams have provisioned these orders in a more reliable manner than BA-NY's normal technicians have done for individual H&R orders. However, the pace of the batch work has been slow. RCN currently has submitted about 190 H&R orders for 13 different buildings since July 19, 1999 that have yet to be scheduled and assigned due dates. In addition, there are more orders to submit, but we are waiting until BA-NY clears the backlog of submitted orders. In short, if BA-NY cannot handle four or five hundred H&R orders in a month, it certainly will not be able to provision in a timely manner the thousands of H&R orders that it will receive every month once facilities-based local competition takes off.

10. I should note that in March of this year, Commission staff intervened in this dispute on RCN's behalf and succeeded in having BA-NY devote more resources to H&R orders at that time. However, not long after Commission staff left the parties to work out H&R issues on their own, BA-NY scaled back its efforts. I anticipate that BA-NY will gear up its efforts once again as the Commission becomes involved with H&R issues. Yet, to avert the possibility that BA-NY will retreat once more after it receives Section 271 authority in New York, the Commission must verify that processes are in place and personnel are dedicated irreversibly to provisioning H&R orders. Otherwise, the next time RCN brings this issue to the Commission's attention, there may not be anything that the Commission can do to correct the problem.

The foregoing statements are true and correct to the best of my knowledge, information and belief.


Edward M. Kuczma

State of New Jersey)
County of OCEAN) : SS

Subscribed and sworn to before me this 26 day of July, 1999.


Notary Public

My Commission expires:

BETTY A. RARICK
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES MAY 20, 2002

